

Reply Appendix A—Antitrust Statute Duplicative Damages Provisions¹

State	Statute	Text
California	Cal. Bus. & Prof. Code § 16760 (a) (1)	The court shall exclude from the amount of monetary relief awarded in the action any amount of monetary relief (A) <i>which duplicates amounts which have been awarded for the same injury</i> , or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to paragraph (2) of subdivision (b), and (ii) any business entity.
District of Columbia	D.C. Code § 28-4509	(a) Any indirect purchaser in the chain of manufacture, production, or distribution of goods or services, upon proof of payment of all or any part of any overcharge for such goods or services, shall be deemed to be injured within the meaning of this chapter.(b) In actions where both direct and indirect purchasers are involved, a defendant shall be entitled to prove as a partial or complete defense to a claim for damages that the illegal overcharge has been passed on to others who are themselves entitled to recover so as to <i>avoid duplication of recovery of damages</i> .(c) In any case in which claims are asserted by both direct purchasers and indirect purchasers, the court may transfer and consolidate cases, apportion damages and delay disbursement of damages to <i>avoid multiplicity of suits and duplication of recovery of damages</i> , and to obtain substantial fairness.
Minnesota	Minn. Stat. § 325D.57	Any person, any governmental body, or the state of Minnesota or any of its subdivisions or agencies, injured directly or indirectly by a violation of sections 325D.49 to 325D.66, shall recover three times the actual damages sustained, together with costs and disbursements, including reasonable attorneys' fees. In any subsequent action arising from the same conduct, the court may take any steps necessary <i>to avoid duplicative recovery against a defendant</i> .
Nebraska	Neb. Rev. Stat. § 59-821.01	In an illegal overcharge or undercharge case in which claims are asserted by both parties who dealt directly with the defendant and parties

¹ Note: Emphasis has been added.

		who dealt indirectly with the defendant or any combination thereof:(1) A defendant may prove, as a partial or complete defense to a claim for damages under sections 59-801 to 59-831 and this section, that the illegal overcharge or undercharge has been passed on to others who are themselves entitled to recover so as <i>to avoid duplication of recovery of such damages</i> ; and (2) The court may transfer and consolidate such claims, apportion damages, and delay disbursement of damages to <i>avoid multiplicity of suits and duplication of recovery of damages</i> and to obtain substantial fairness.
New Mexico	N.M. Stat. § 57-1-3	In any action under this section, any defendant, as a partial or complete defense against a damage claim, may, <i>in order to avoid duplicative liability</i> , be entitled to prove that the plaintiff purchaser or seller in the chain of manufacture, production, or distribution who paid any overcharge or received any underpayment, passed on all or any part of such overcharge or underpayment to another purchaser or seller in such chain.
New York	N.Y. Gen. Bus. Law § 340(6)	In any action pursuant to this section, the fact that the state, or any political subdivision or public authority of the state, or any person who has sustained damages by reason of violation of this section has not dealt directly with the defendant shall not bar or otherwise limit recovery; provided, however, that in any action in which claims are asserted against a defendant by both direct and indirect purchasers, the court shall take all steps necessary to avoid duplicate liability, including but not limited to the transfer and consolidation of all related actions. In actions where both direct and indirect purchasers are involved, a defendant shall be entitled to prove as a partial or complete defense to a claim for damages that the illegal overcharge has been passed on to others who are themselves entitled to recover <i>so as to avoid duplication of recovery of damages</i> .
North Dakota	N.D. Cent. Code. § 51-08.1-08	In any action for damages under this section, any defendant, as a partial or complete defense

		against a claim for damages, is entitled to prove that the plaintiff purchaser, or seller in the chain of manufacture, production, or distribution, who paid any overcharge or received any underpayment passed on all or any part of the overcharge or underpayment <i>to another purchaser or seller in that action.</i>
Rhode Island	R.I. Gen. Laws § 6-36-12 (g)	In any action under this section the fact that a person or public body has not dealt directly with the defendant shall not bar or otherwise limit recovery. Provided, however, that the court shall exclude from the amount of the damages awarded in the action, any amount of monetary relief that <i>duplicates amounts that have been awarded for the same injury</i> , but shall not exclude reasonable costs and attorneys' fees.
South Dakota	S.D. Codified Laws § 37-1-25 and S.D. Codified Laws § 37-1-33	37-1-25. Exclusions in determining amount of monetary relief. The court shall exclude from the amount of monetary relief awarded for such action any amount of monetary relief <i>which duplicates amounts which have been awarded for the same injury</i> , or which is properly allocable to natural persons who have excluded their claims pursuant to § 37-1-28 and any business entity. 37-1-33. No provision of this chapter may deny any person who is injured directly or indirectly in his business or property by a violation of this chapter the right to sue for and obtain any relief afforded under § 37-1-14.3. In any subsequent action arising from the same conduct, the court may take any steps necessary <i>to avoid duplicative recovery against a defendant.</i>
Vermont	Vt. Stat. Ann. tit. 9 § 2465 (b)	In any action for damages or injury sustained as a result of any violation of State antitrust laws, pursuant to section 2453 of this title, the fact that the State, any public agency, political subdivision, or any other person has not dealt directly with a defendant shall not bar or otherwise limit recovery. The court shall take all necessary steps <i>to avoid duplicate liability</i> , including the transfer or consolidation of all related actions.

West Virginia	W. Va. Code § 47-18-9 (f)	The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief which: (1) <i>duplicate amounts which have been awarded for the same injury</i> ; or (2) are properly allocable to natural persons who have excluded their claims pursuant to subsection (c).
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